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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,819	03/11/2004	Eric D. Deily	MS1-1906US	7127
22801	7590	09/01/2006	EXAMINER	
LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201			MOFIZ, APU M	
			ART UNIT	PAPER NUMBER
			2165	

DATE MAILED: 09/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/798,819

Applicant(s)

DEILY ET AL.

Examiner

Apu M. Mofiz

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-40 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of copending Application No. 11/380858. Although the conflicting claims are not identical, they are not patentably distinct from each other because the subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the instant application are claiming common subject matter and they are substantially similar in scope and they use the same limitations, using varying terminology. They are not patentably distinct from each other because claims of copending Application 11/380,858 contain every element of claims 1-40 of the instant specification.

"A later patent claim is not patentably distinct from an earlier patent claim if the later claim is obvious over, or anticipated by, the earlier claim. In re Longi, 759 F.2d at 896, 225 USPQ at 651."

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-40 are rejected under 35 U.S.C. 102(b) as being anticipated by Microsoft, Tracing Overview, 2002, pages 1-8 and hereinafter referred to as Microsoft.

As to claims 1,15,16,32,33,35,36 and 40, Microsoft teaches a method comprising: servicing a Web request from a Web application (page 1); detecting the occurrence of an event (i.e., an event in the trace category) in the servicing of the Web request (pages 2-3); and logging an entry in a trace log, wherein the entry includes: information descriptive of the occurrence of the event in the servicing of the Web request (pages 6-8); and an Identifier (ID) corresponding to the Web request (page 6).

As to claims 2,17 and 37, Microsoft teaches wherein the logging of the entry in the trace log further comprises determining which of the information that is descriptive of the occurrence of the event in the servicing of the Web request to put into the entry as a

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function of a predetermined level of verbosity (i.e., the description, event category and any other information that need to be in the trace log purely depends on the designer of the trace configuration file and any particular descriptive information is descriptive data and therefore non statutory. All of the events occur regardless of whether the trace is captured or not (see background of the instant specification). It is the attributes of the configuration file that decides what data needs to be detected and captured in the trace log.) (pages 1-8).

As to claims 3, 18 and 38, Microsoft teaches wherein the entry is logged in the trace log during the servicing of the Web request only when the event is selected from the group consisting of: the event occurs within the context of a predetermined Universal Resource Locator (URL); the event pertains of the functionality of authentication; the event pertains of the functionality of security; the event pertains of the functionality of compression; the event pertains of the functionality of a Common Gateway Interface (CGI); the event pertains of the functionality of one or more filters; and the event is a predetermined event (pages 1-8).

As to claims 4,19 and 39, Microsoft teaches wherein: the entry is logged in the trace log during the servicing of the Web request only when the event pertains to a predetermined filter (i.e., trace property or trace context is defined in the configuration file); and the information includes data going into the predetermined filter and data coming out of the predetermined filter (pages 1-8).

As to claim 5, Microsoft teaches wherein: the servicing of the Web request from the Web application comprises executing the Web application that is running on or interfacing with a server that is servicing the Web request; the detecting of the occurrence of the event in the servicing of the Web request comprises detecting the occurrence of the event in the execution of the Web application that is running on or interfacing with the server; and the information descriptive of the occurrence of the event in the servicing of the Web request comprises the occurrence of the event in the execution of the Web application (pages 1-8).

As to claims 6 and 23, Microsoft teaches wherein at least one of the detecting and the logging are performed by one or more components of the operating system of a server (pages 1-8).

As to claims 7,9,20-22 and 24, Microsoft teaches wherein: the server services the Web request from the Web application; the operating system of the server includes one or more Application Program Interfaces (APIs); the Web application is executed by, or interfaces with, the server; the Web application interfaces with at least one said API to log a Web application event as a Web application entry in the trace log; the Web application event occurs within the Web application itself; and the Web application entry includes: information descriptive of the occurrence of the Web application event in the servicing of the Web request by the server when the Web application is running on, or

interfacing with, the server; and the ID (i.e., the session id associated with the web request) corresponding to the Web request (pages 1-8).

As to claims 8,25 and 26, Microsoft teaches wherein: a server having an operating system services the Web request from the Web application; and at least one of the detecting and the logging are performed by one or more server applications that are executed by the server (pages 1-8).

As to claims 10 and 27, Microsoft teaches wherein the logging of the entry in the trace log is in response to the detecting of the occurrence of the event in the servicing of the Web request (pages 1-8).

As to claims 11 and 28, Microsoft teaches generating a report containing at least a portion of the information in each said entry for which the ID in the entry matches a supplied ID (i.e., Microsoft teaches using a database to store trace log information and reporting is an essential feature of any database) (pages 1-8).

As to claims 12 and 29, Microsoft teaches wherein: each said entry is in a binary format; and the generating of the report further comprises using an ID corresponding to each said event to map the binary format of each said entry into an event description that is in a format that is human readable (all database management system keeps data in binary format internally) (pages 1-8).

As to claims 13 and 30, Microsoft teaches wherein the ID is the first portion of the entry (i.e., the ID is part of the trace record information) (pages 1-8).

As to claims 14 and 31, Microsoft teaches wherein the ID is unique to the Web request with respect to other said Web requests (i.e., the web request session ids are unique) (pages 1-8).

Points of Contact

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Apu M. Mofiz whose telephone number is (571) 272-4080. The examiner can normally be reached on Monday – Thursday 8:00 A.M. to 4:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Gaffin can be reached at (571) 272-4146. The fax numbers for the group is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-9600.


Apu M. Mofiz
Primary Patent Examiner
Technology Center 2100

August 30, 2006